UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,191	11/13/2001	Christoph Dobrusskin	PHN 16,257A	4074

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EXAMINER
HYLINSKI, STEVEN J

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
10/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/014,191	DOBRUSSKIN ET AL.
	Examiner	Art Unit	
	Steven J. Hylinski	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 April 2007*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4-7,12 and 16-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4-7,12 and 16-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   **Claims 4-7, 12, and 16-21 are rejected under 35 U.S.C. 102(e) as being**

anticipated by USPN 6,213,871 to Yokoi.

Re Claim 4,

Yokoi discloses a multimedia method for use with a screen-based (Fig. 2, virtual

creature **1** is based around the screen **15**) host system (Col. 10 Lines 35-50 disclose

that two virtual creatures can initiate a battle when they come within a proximity of each

other, and Col. 17 Lines 47-50 discloses that the virtual creature that receives a battle

indication **67d** on its screen will seek to initiate a battle by connecting to another

character. In other words, the virtual creature that receives the battle indication **67d** on

its screen becomes the host for the battle, since it seeks out the connection in order to

war with another player. Also Col. 21 Lines 5-9 disclose that each virtual creature can

send data relating to itself to the connected opponent virtual creature, and vice-versa.

Each creature can thus host data, and receive data.) provided with information

processing (Fig. 1 CPU **23**) and I/O (Fig. 1-2, switches **1,2,3**) facilities, and for

interacting with an item (Col. 3 Lines 46-56, virtual creatures have connecting means for

warring with each other), the method comprising: receiving identity information from the

item at the host (Col. 10 Lines 43-49, the warring means **54** creates a war between two

virtual pets based on information that is received through the connecting means **52**.

Also, Col. 21 Lines 5-9, data of the virtual creatures are transferred to the counter

apparatuses in step **SP143**), in response to proximity conditions between the host and

the item (Col. 10 Lines 35-42, the two virtual creature apparatuses can come into

connection simply by bringing them in contact with each other), presentinq to a user an

associated service field at the host in response to the identity information (Col. 10 Lines

43-49, the service field that the two virtual creatures present to the user is a war, also as

disclosed in Col. 23 Lines 11-22. Col. 21 Lines 21-32 discloses that the battles are

presented as sequences of images on each of the two virtual creatures' screens, and

that the battles conclude with a win or lose screen for each character.), and

transmitting information from the host to the item, for storage at the item (Col. 18 Lines

59-67, Col. 19 Lines 1-4, and Col. 21 Lines 15-20, a win or loss is determined for each

virtual creature based both on the host character's own data, and also based on data

received over the connection means **52**. Also Fig. 12, the storing unit **55** of each virtual

creature is connected to the warring means **54**, and win or loss determining means **59**.)

Re Claim 5,

Yokoi discloses enabling the user to activate information processing operations

at the host related to the associated service field (Col. 10 Lines 35-49, the user enables

the warring means **54** and win or loss determining means **59** on each of the two

connected virtual creatures to process information when the brings his virtual creature in proximity to another virtual creature)

Re Claim 6,

Yokoi discloses transmitting host-generated results (Col. 18 Lines 62-67 and Col. 19 Lines 1-4, the win or loss result of the war created between two virtual creatures is based both each creatures' own data, and also based on data of the opponent creature, ie. the host creature, sent and received over the connection means **52** related to the associated service field (related to the battle) during such proximity conditions to the item (while the two virtual creatures are connected for the purpose of warring, as disclosed in Col. 18 Lines 62-67).

Re Claims 7 and 17,

Yokoi discloses an application program (warring means **54**) producing an iconized representation of the item at the host in response to the identity information (Col. 21 Lines 21-26 discloses that screens depicting wars between the two connected virtual creatures are displayed. Fig. 17 **SP155** also discloses that a battle is displayed. Fig. 19 shows warring situations between characters, the characters being represented by icons on the screen. Therefore displaying battle scenes means that each of the two connected virtual creatures will see an iconic representation of the other creature during a war, as in Fig. 19, in response to identity information transferred between two connected virtual characters, as indicated in **SP141** and **SP143** in Fig. 17.)

Re Claim 12,

Yokoi discloses identifying the host to the item in response to proximity

conditions between the host and the item (Col. 21 Lines 1-5, it is determined whether

the two virtual creatures are about to start a war based on whether the connectors are

attached to each other. Also as previously disclosed in Col. 10 Lines 35-42, it is

contemplated that the two virtual creatures only need be proximate each other in order

to establish a data link).

Re Claim 16,

Yokoi discloses a multimedia method for use with a screen-based host system

provided with information processing and I/O facilities (see the rejection of Claim 4

above), and for interacting with an item (Col. 3 Lines 47-55, for warring with another

virtual creature), the method comprising: receiving identity information from the item at

the host system, in response to proximity conditions between the host and the item (see

the rejection of claim 12 above), selecting an application program based on the identity

information, the application program including one of an information processing program

and an entertainment program (the program is a battle between two virtual characters

as discussed in Col. 3 Lines 50-54, and as provided by warring means **54** as shown in

Fig. 10), executing the application program at the host system (Col. 4 Lines 58-61

disclose that Fig. 17 is a flow chart of a war occurring on an apparatus for a virtual

creature. These steps, including initializing the war as shown in Fig. 17, occur on both of

the two connected virtual creatures.), and transmitting information from the application

program to the item, for storage at the item (see the rejection of claim 4 above).

Re Claims 18-19,

Yokoi discloses the application program including at least one of a video game (a battle between two virtual creatures as disclosed in Col. 3 Lines 50-54), an audio story, and a diary.

Re Claims 20-21,

Yokoi discloses that the information that is transmitted to the item includes information particular to a user of the item (Col. 21, Lines 1-9, personal data of each virtual creature is transferred to the counter virtual creature), and a state of the application program (Col. 21 Lines 1-5, whether the war is about to begin is determined from the status of the connection).
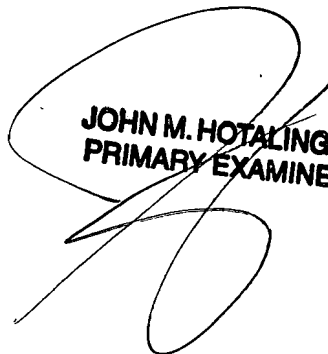
Conclusion

3.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, and is included in the Notice of References Cited.

4.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Hylinski whose telephone number is 571-270-1995. The examiner can normally be reached on M-Thurs. 7:00a-5:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SJH/ 10/14/2007

JOHN M. HOTALING, II
PRIMARY EXAMINER